

## **Remarks**

### **1. Summary of the Office Action**

In the Office Action dated June 16, 2009 the Examiner rejected claims 1-9, 13, 14 and 26-34 under 35 U.S.C. § 103 as obvious over the combination of U.S. Patent 6,751,475 (“Holmes”) in view of WIPO Publication 98/54845 (“Guntzer”) and in further view of U.S. Patent 5,859,628 (“Ross”). The Applicants would like to respectfully point out that in the Office Action the Examiner refers to WIPO Publication 98/54845 as “Erfinder”, which the Applicants believe is the German word for “inventor”. However, because the figure and the publication number enclosed in the body of the Office Action matched the ones in the Abstract section of Guntzer, the Applicants believe that the citation was in fact to Guntzer and not to Erfinder. If the Applicants’ belief is incorrect, the Applicants respectfully request the Examiner to provide the proper citation and allow the Applicants an opportunity to respond to the Office Action in view of the proper citation.

### **2. Status of the Claims**

Claims 1-9, 13, 14, 26-34, 40, and 41 are pending. Claims 10-12, 15-25, and 35-39 are cancelled without prejudice or disclaimer. Claims 40 and 41 are new.

### **3. Response to the § 103 Rejections**

As noted above, the Examiner rejected claims 1-9, 13, 14 and 26-34 as obvious over the combination of Holmes, Guntzer and Ross. Applicants respectfully traverse the rejection of those claims because the references as cited either alone or in combination fail to disclose, teach or suggest every element of the rejected claims, as is required to establish *prima facie* case of obviousness under MPEP § 2143. In relevant part:

The rationale to support a conclusion that the claim would have been obvious is that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination yielded nothing more than predictable results to one of ordinary skill in the art. *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1395; *Sakraida v. AG Pro, Inc.*, 425 U.S. 273, 282, 189 USPQ 449, 453 (1976); *Anderson's-Black Rock, Inc. v. Pavement Salvage Co.*, 396 U.S. 57, 62-63, 163 USPQ 673, 675 (1969); *Great Atlantic & P. Tea Co. v. Supermarket Equipment Corp.*, 340 U.S. 147, 152, 87 USPQ 303, 306 (1950). "[I]t can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does." *KSR*, 550 U.S. at \_\_\_, 82 USPQ2d at 1396. If any of these findings cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art. See MPEP § 2143(A).

Specifically, Holmes is directed to "a system for monitoring data communication from a wireless device attached to a wireless device mounting unit using a vehicle identification number." See column 1, lines 52-55. To this end, Holmes discloses that "[a] program operating on the wireless device processor obtains and transmits to the wireless communication network the vehicle identification data." See column 1, line 67 – column 2, line 3. Moreover, Holmes discloses "[t]he vehicle through its electronic control unit (ECU) 52 transmits a vehicle identification number 24 to the wireless device 22 via the mounting system 23 and communication interface 1e between the wireless device 22 and the vehicle 20." See column 3, lines 47-65. Accordingly, a person having ordinary skill in the art would clearly understand that the vehicle identification data is a vehicle identification number or at most a non-functional piece of data identifying the vehicle. In contrast, the independent claims 1 and 26 include the limitation of *the docking apparatus communicating with the remote communications device to include the telematics **functionality** module in a memory of the remote communications device.* Consequently, because Holmes discloses only nonfunctional vehicle identification data rather

than a *telematics functionality module*, Holmes fails to disclose, teach or suggest at least the aforementioned limitation present in the independent claims 1 and 26 respectively.

Moreover, Guntzer is directed to “a mounting device (1) for a mobile car telephone (2), having a memory (3) for storing an identification code which activates the mobile telephone, a device for detecting a release signal from the vehicle, and a code signal transmitter/receiver device (5).” See Abstract. Furthermore, Guntzer discloses that “the identification code stored in the memory of the mounting device can be transmitted to the mobile telephone when the vehicle is started, so that the telephone can be used without the driver having to introduce the personal identification number (PIN) each time. See Abstract. However, Guntzer also discloses that the identification code stored in the motor vehicle mounting device can be either a PIN or an encrypted PIN. See column 3, lines 5-9. Accordingly, a person having ordinary skill in the art would clearly understand that Guntzer discloses a PIN which, similarly to Holmes, is also a nonfunctional piece of data. Consequently, because Guntzer discloses communicating a nonfunctional identification code rather than a *telematics functionality module*, Guntzer fails to cure the deficiencies of Holmes. Namely, Guntzer fails to disclose, teach or suggest at least the limitation of *the docking apparatus communicating with the remote communications device to include the telematics functionality module in a memory of the remote communications device* present in the independent claims 1 and 26.

Furthermore, Ross is directed to “portable, personal computer systems and, in particular, such a system formatted for use in an automobile or other vehicle.” See column 1, lines 9-11. Specifically, “[t]he system 100 is a personal onboard information system for use in a vehicle (not shown) and includes a personal digital assistant (PDA) 102” and “further includes a cradle 104 for detachably receiving PDA 102.” See column 3, lines 18-20. Moreover, Ross discloses that “[a] system according to the invention optionally provides automatic dialing when a cellular telephone is in conjunction with the PDA via the cradle. The PDA and cradle system stores numerous phone numbers and provides the information to the telephone by placing the telephone over the cradle and generating the proper tones.” See column 8, lines 38-44. In addition, Ross discloses “Alternatively, the cradle includes a well for a cellular telephone to be detachably received in addition to the PDA. If such a dual cradle unit is installed in the vehicle, then electrical connection is also made between the cradle and the portable cellular telephone.” See column 8, lines 58-60. Ross also mentions optionally coupling the PDA or the cradle to a cellular

modem, a satellite transceiver, or a GPS receiver, as applicable. See column 8, lines 21-25 and column 9, lines 21-25. However, Ross is silent on any remote communications capabilities of the PDA or the cradle itself. In particular, with respect to the PDA and the cradle, only local communications capabilities such as a touch screen display, PCMCIA, acoustic, IR, parallel and serial are mentioned. See column 7 lines 39-55, column 8, lines 10-53, and column 9, lines 10-15. Accordingly, a person having ordinary skill in the art would clearly recognize that the PDA and the cradle are functionally different from and do not include the functionality of remote communications devices. Therefore, the PDA and the cradle are not remote communications devices themselves. Moreover, at most, data and signaling messages, rather than *telematics functionality modules* of any kind, are shared with the remote communications devices of the system disclosed by Ross. First, the PDA or the cradle communicates either telephone numbers or voice with the cellular telephone. See column 8, lines 38-55. Second, the PDA or the cradle communicates electronic mail, facsimile, voice, or message data with the satellite transceiver or the cellular modem. See column 9, lines 40-45. Third, the GPS receiver in Ross communicates position information. See column 8, lines 64-67. However, Ross is silent on what if anything is communicated to the GPS receiver. Last, the PDA and the cradle, even if each characterized as a remote communications device, *arguendo*, with which characterization the Applicants respectfully disagree as discussed above, also communicate data and signaling messages rather than *telematics functionality modules* between each other. See column 10, lines 19-54.

To summarize, Ross discloses communicating data and signaling messages with remote communications devices. However, Ross does not disclose, teach or suggest *communicating with the remote communications device to include the telematics functionality module in a memory of the remote communications device* present in the independent claims 1 and 26. Consequently, Ross fails to address the shortcomings of Holmes and Guntzer taken either alone or in combination.

In addition, even if, *arguendo*, the signaling or data of Holmes, Guntzer, and Ross taken either alone or in combination were to be characterized as a *telematics functionality module*, with which the Applicants respectfully disagree as discussed above, the references would nonetheless fail to disclose, teach or suggest at least the limitation of *wherein the telematics functionality module comprises one or more telematics related applications, including at least one of a noise cancellation application, a routing guidance application, and an emergency notification*

*application*. In particular, the Applicants thank the Examiner for recognizing in the Office Action that the combination of Holmes and Guntzer do not disclose *the telematics functionality module comprises one or more telematics related applications, including at least one of a noise cancellation application, a routing guidance application, and an emergency notification application*. Nevertheless, the Applicants respectfully disagree that Ross discloses, teaches or suggests the aforementioned limitation. In particular, Ross discloses "Road Manager then sends this map as well as vehicle and occupant information (such as medical ailments, current medication, age, sex and even perhaps the complete medical history of the occupants) via a cellular modem provided by the cradle electronics, to the medical facility." See column 10, lines 49-54. However, a person having ordinary skill in the art would clearly recognize that the "map as well as vehicle and occupant information" sent via the cellular modem is merely data and not a *telematics related application*. Accordingly, Ross fails to disclose, teach or suggest at least the limitation of *the telematics functionality module comprises one or more telematics related applications, including at least one of a noise cancellation application, a routing guidance application, and an emergency notification application* present in the independent claims 1 and 26, and thus fails to cure the shortcomings Holmes and Guntzer taken either alone or in combination.

## **5. New Claims**

Support for claims 40 and 41 is provided by, at least, paragraphs 15-50 and Figures 1 and 2. Claims 40 and 41 introduce no new matter.

Claim 41 includes limitations that are analogous to the limitations of claims 1 and 26 discussed above, namely, claim 41 recites that the remote communications device "communicate[s] with a docking apparatus in a vehicle to initiate downloading of a telematics functionality module into a memory of the remote communications device." As such, claim 41 is in condition for allowance for at least reasons similar to those discussed above in connection with claims 1 and 26.

## 5. Conclusion

Consequently, for at least the foregoing reasons the independent claims 1 and 26 are patentable. In addition, claims 2-9, 13, 14 and 27-34 are dependent from claims 1 and 26 respectively and therefore include at least the limitations of the independent claims 1 and 26. Thus, claims 2-9, 13, 14 and 27-34 are patentable for at least the reasons presented in reference to the independent claims 1 and 26.

In view of the foregoing, the Applicants submit that all of the presently pending claims are in condition for allowance. Therefore, the Applicants respectfully request favorable reconsideration and allowance of those claims.

Respectfully submitted,

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